IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.341 OF 2005

M/s.Parle Agro Pvt. Ltd. ..Petitioners.

Vs.

M/s.National Food Products
(India) Pvt. Ltd. ..Respondents.

Mr.Shreejith i/b.M/s.Sreeji & Lal for the Petitioners.

Mr.C.Kapil with Ms.Shilpa Kapil for the Respondents.
Laxmichand Bhagaji Ltd. ..Applicant.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD FEBRUARY, 2006

P.C. :

According to the Petitioners, on the date of the filing of the Petition, an amount of Rs.10,34,522/- was due and payable by the Company in respect of goods sold and supplied by the Petitioners to the Respondents Company. The Company had issued two cheques dated 20.12.2004 and 24.1.2005 of an aggregate value of Rs.9,22,780/-. However, the cheques were dishonoured.

2. Proceedings under section 138 of the Negotiable Instruments Act were adopted. The cheque amount was thereafter paid and the proceedings under section 138 were withdrawn.

3. This leaves the balance principal amount of Rs.66,293/- and interest. Even assuming that the invoices do not contain a term for interest, the Petitioners were entitled to interest on the dishonoured cheques.

4. The Petitioners have restricted their claim for interest upto the date of filing of the Petition. In fact, the Petitioners would be entitled to interest upto the date of the payment of the cheque amount, which would be far higher. The amount claimed by the Petitioners is only Rs.35,489/-. I however do not intend admitting the Petition without giving the company an opportunity of paying the amount.

5. In the circumstances, the following order is passed :

i) In the event of the Company paying to the Petitioners a sum of Rs.1,01,782/- on or before 20.4.2006, the Petition to stand dismissed.

ii) In case of failure on the part of the Company

to deposit the aforesaid amount within time limit, the petition shall stand admitted and to be advertised in Free Press Journal, Navshakti and Maharashtra Government Gazette. The Petitioner to deposit an amount of Rs.2,000/- with Prothonotary and Senior Master of this Court within four weeks from the date of default.

All parties to act on a certified copy of this order.